



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

David T. Marshall, DVM  
State Veterinarian

June 23, 2010

Ms. Jeanette Baldwin  
Urban Dog Outsitters  
7051-A Cliffdale Road  
Fayetteville, NC 28314

Hand Delivered

**NOTICE OF CIVIL PENALTY**

**RE: VIOLATIONS OF N.C. ADMINISTRATIVE CODE CHAPTER 52J, SECTION .0201 & .0207**

Dear Ms. Baldwin:

Ms. Pat Sholar, Animal Health Technician with the North Carolina Department of Agriculture & Consumer Services, Animal Welfare Section, Veterinary Division, conducted an inspection in your facility on June 17, 2010, and discovered specific conditions and/or practices amounting to failure to comply with the requirements of 02 NCAC .0201, and .0207. Failure to comply with the requirements established in these rules constitutes grounds under N.C. General Statute § 19A-40, for this Department to assess a civil penalty against you. The civil penalty assessment is attached.

Within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the Office Of Administrative Hearings (OAH) appealing the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, the parties may initiate settlement negotiations at any time. To negotiate a settlement of this assessment, present your offer to Dr. David T. Marshall, State Veterinarian, who may be contacted by telephone at 919/733-7601. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

**PAYMENT**

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

1030 Mail Service Center, Raleigh, North Carolina 27699-1030 • (919) 733-7601  
An Equal Opportunity Affirmative Action Employer

North Carolina Department of Agriculture and Consumer Services  
Dr. David T. Marshall  
State Veterinarian  
1030 Mail Service Center  
Raleigh, NC 27699-1030

**APPEAL**

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings.

File the petition and one copy with:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Ray Starling  
North Carolina Department of Agriculture and Consumer Services  
Registered Agent and General Counsel  
1001 Mail Service Center  
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Lee Hunter, DVM, MPH  
Director, Animal Welfare Section

JLH/mb

Attachment: Assessment Document

cc: Mr. Barry Bloch, Assistant Attorney General  
Mr. Howard Isley, Assistant Commissioner  
Mr. Ray Starling, Legal Affairs  
Ms. Pat Sholar, Animal Health Technician  
Ms. Dianne Whitman, Administrative Officer

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, VETERINARY DIVISION

IN THE MATTER OF

MS. JEANETTE BALDWIN

)  
) CIVIL PENALTY ASSESSMENT  
)  
) PURSUANT TO THE ANIMAL  
) WELFARE ACT, N.C. GEN. STAT. §  
) 19A-40, AND 02 N.C.A.C.  
) 52J .0101 et seq.

Acting pursuant to N.C. Gen. Stat. § 19A-40 and 2 N.C. Administrative Code Sections 52J .0101, et. seq.,  
Dr. David T. Marshall, State Veterinarian, NCDA&CS makes the following:

**I. FINDINGS OF FACT**

1. At all times pertinent to the following findings, Ms. Jeanette Baldwin held the license, no. 10732, to operate Urban Dog Outsitters, a boarding kennel facility located at 7051-A Cliffdale Road, Fayetteville, NC 28314 (hereinafter, the “facility”).
2. On 17 June 2010 Ms. Sholar inspected the facility and found inadequate care and unsanitary conditions within and without the facility including:
  - Structural damage to and dirty moldings;
  - Bleach fumes;
  - Lack of lighting in the K-9 room;
  - Broken gates – outside chain link fencing;
  - Lack of adequate shade and/or dog house in the outdoor runs;
  - old feces in the both outdoor and indoor kennels;
  - bedding in enclosures was dirty;
  - lack of food and water in the cats enclosure;
  - lack of food in dogs’ enclosure;
  - lack of any records for a gray tabby cat;
  - denial of clearly needed veterinary care;
  - lack of records of veterinary care;
  - nearly all animals seen on premises were hungry;
  - failure to staff with personnel who are capable and/or willing to provide basic minimum care to animals housed in the facility;
  - animals were left unattended from at least 9:30 a.m. until 1:25 p.m., despite posted business hours stating that the kennel opens at 8:30 a.m..
3. Ms. Sholar completed an inspection report detailing the unsanitary conditions on 17 June 2010. Mr. Jarred Baldwin signed the report and received a copy of it.
4. The North Carolina Department of Agriculture, Veterinary Division, Animal Welfare Section, previously issued Ms. Baldwin a “Notice of Warning for Failure to Comply with the NC Administrative Code” addressed to the facility on 16 November 2009, by registered US Mail, return receipt requested. The Animal Welfare Section received a notice of receipt for this letter signed by Mr. Jarred Baldwin on 18 November 2009.

5. The North Carolina Department of Agriculture, Veterinary Division, Animal Welfare Section, previously issued Ms. Baldwin a civil penalty assessment in the amount of \$250.00 for failure to provide adequate care to the animals housed in the kennel and failure to adequately maintain the kennel facility on December 17, 2009. Ms. Baldwin paid this civil penalty assessment on January 5, 2010.
6. Conditions found on June 17, 2010, were substantially the same as those found that warranted issuance of the Notice of Warning
7. As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, alleges that Ms. Baldwin either by act or omission violated the following provision of the North Carolina General Statutes:

#### **§ 19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

#### **02 NCAC 52J .0201 GENERAL**

- (a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.
- (b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code.
- ...
- (e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.
- ...
- (g) Each facility shall have the ability to confirm ambient temperature.
- ...
- (j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).

#### **02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.**

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (1) origin of animals (including names and addresses of consignors) and date animals were received;
- (2) description of animals including species, age, sex, breed, and color markings;
- (3) location of animal if not kept at the licensed or registered facility;
- (4) disposition of animals including name and address of person to whom animal is sold, traded or adopted and the date of such transaction; in the event of death, the record shall show the date, signs of illness, or cause of death if identified; if euthanized, the record shall show date and type of euthanasia; and
- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

## **02 NCAC 52J .0207 SANITATION**

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day.

### **II. CONCLUSIONS OF LAW**

- A. Ms. Baldwin violated 2 N.C. Administrative Code 52J .0101, .0201 and .0207 and may be assessed a civil penalty of up to \$5,000.00 per violation pursuant to N.C. Gen. Stat. § 19A-40.
- B. The Director, Animal Welfare Section, pursuant to N.C. Gen.Stat. § 19A-40 has the authority to assess civil penalties in this matter.

### **III. DECISION**

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of N.C. Gen. Stat. § 19A-20 and 2 N.C. Administrative Code 52J .0101, .0201 and .0207.

Accordingly, Ms. Baldwin is assessed a civil penalty of (\$2,500.00) for violating 02 N.C. Administrative Code 52J .0101, .0201 and .0207.

\$2,500.00 TOTAL AMOUNT ASSESSED

23 June 2010

Date



Dr. Lee Hunter

Director of Animal Welfare Section